



# Nebraska Resources

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## Kansas Files Lawsuit Over Republican River Compact

By Jim Cook



As anticipated, the State of Kansas has initiated a lawsuit against the State of Nebraska concerning the Republican River Compact. That compact was signed in late 1942 and approved by the Congress and the three state legislatures in 1943. As the basis for its proposed suit, Kansas is alleging that Nebraska has been using more than its share of water under the compact resulting in injury to Kansas and its citizens. The third member of the Compact Commission, the State of Colorado, would also be named as a party to the lawsuit, but Kansas has not requested any relief from Colorado.

As an original action between states filed directly with the United States Supreme Court, the lawsuit proposed by Kansas does not have to be accepted by the Court. What Kansas has requested is the Court's permission to file its "bill of complaint." Nebraska has until late July to respond to that request and is expected to argue that the Court should not accept the case, but rather should allow the parties to continue to try to work out their differences among themselves. A decision on that threshold question is expected within a few months.

*Continued on page 2*



## Water Supply Study Nearing Completion

By Steve Gaul

Work is nearing completion on the Bureau of Reclamation – Natural Resources Commission study: **Nitrate and Nebraska's Small Community and Rural Domestic Water Supplies: An Assessment of Problems, Needs, and Alternatives.** Earlier this year the study title and scope were narrowed to help make clear the study's focus on nitrate related issues versus other types of water quality – water supply questions.

The study is intended to provide an analysis of the state's drinking water supply problems related to nitrate and assess costs to small communities and rural domestic users. It will identify nitrate related infrastructure expenditures, examine community nitrate monitoring information, examine nitrate related costs in the context of other supply problems, and identify possible alternatives for meeting current and future water needs. The study is scheduled for completion by the end of the year. A preliminary draft report is expected to be submitted for review by a public advisory group in September.

## Update on Platte River Cooperative Agreement Activities

As was reported in the Fall 1997 issue of "**Nebraska Resources**" Nebraska, Colorado, Wyoming and the United States Department of the Interior signed an agreement on July 1, 1997. That agreement included details for a proposed basinwide recovery program for endangered species in the Central Platte River basin and identified activities to be undertaken while that proposal was being assessed under the National Environmental Policy Act.

Last fall a ten member **Governance Committee** was formed and began to meet on a monthly basis. That committee includes representatives from each of the three states (Dayle Williamson, Director of Natural Resources, is Nebraska's representative), the federal government, water users from three geographic regions, and the environmen-

*Continued on page 3*



## Commission Publishes Nebraska Water Use Report

**Estimated Water Use in Nebraska** is now available by contacting the Natural Resources Commission. The 64 page Commission report presents estimates of Nebraska water use in 1995 as compiled for the U.S. Geological Survey National Water Use Information Program. It was compiled in cooperation with the USGS.

The report contains information on a variety of water use categories, including: public water supply, domestic, commercial, industrial, mining, irrigation, livestock, power generation, and other uses. It indicates use by county and river basin. It also includes information on both surface and groundwater uses.

The USGS has cooperated to publish reports on Nebraska water use since 1965. The information is gathered at 5 year intervals and the Natural Resources Commission has cooperated with the USGS to compile this information for 1990 and 1995. **The report may also be viewed at the Commission's website at <http://www.nrc.state.ne.us>.**

## DIRECTOR'S COMMENTS

John Turnbull, Manager of the Upper Big Natural Resources District told me recently that he was doing some historical research and came across the York County Soil Conservation District Annual Report from 1951. An interesting quote from the report – *"The working relations with the P.M.A. (forerunner of the ASCS, now FSA) continued to be good. In February (1951) we received from the Secretary of Agriculture memorandum # 1278 which provided for closer working relations among the different agriculture agencies. The provisions which affected SCS (now NRCS) are as follows: That all agencies relating to soil conservation such as SCS, PMA, FHA (now RD) be housed under one roof for the convenience of the farmers."*

Almost a half-century later, Secretary of Agriculture Glickman is still working on the task described in memorandum #1278. Everyone agrees that **"one-stop-shopping"** is the way to go, but when it comes to actual office consolidation, it is a slow process. Public opinion has a great impact on office locations and mergers. During the last year, a new wrinkle has been added to USDA restructuring, it is termed "administrative convergence." As of October 1, 1998, the USDA agencies that have been directed to share offices at the same location will also be required to have a central administrative function to create greater efficiency. The greatest impact of this requirement will be felt at the state office level. The use of linkable computer systems between the agencies still remains a great hurdle.

Another new requirement is "performance oriented budgeting." For years, budgets have been based on "resource needs." The new direction is to look at performance, or to see what is really happening to protect the environment. Since the co-location of offices has not been easy, some of the more recent requirements may even prove to be more difficult. NRCS Chief Pearlie Reed has a very positive attitude about the changes. He recently said, *"We must do everything we can to free our employees from jobs that do not add value to the conservation program."* That is certainly good news to conservation districts all across the United States, as the focus must be toward the delivery of programs to the field customers. I have been acquainted with Chief Reed for a number of years and he is a "man of his word." A number of changes have already been put in place to provide a greater focus on field activities.

The changes described above, and numerous other changes will have to take place in a relatively short time as we are at a time when society no longer will tolerate lengthy delays for positive improvements. While change is difficult for everyone, I would urge everyone working on the plan in Nebraska to work out the arrangements as soon as possible and get on with the business of administering programs. We need to pull together on this requirement!

A final thought – does anyone anticipate a Secretary of Agriculture working on these same issues 50 years from now? Probably even more final – will there be a Secretary of Agriculture 50 years from now?



(Lawsuit Over Republican River Compact Con't)

If the Court allows Kansas to file the suit, a "special master" will be appointed by the Court. Typically, special masters in interstate water cases are well recognized attorneys with significant experience in western water law. If a special master is appointed, he or she will work with the parties to define the issues as specifically as possible and set

a schedule for proceeding through the litigation. How long this might take is unknown. Similar litigation between Nebraska and Wyoming on the North Platte River may, however, help to shed light on the possibilities. The North Platte case was filed by Nebraska in 1986. While some of the issues in that case have already been resolved by the special master and the Court and others have been resolved by negotiation, a number of significant issues remain for trial. That is presently scheduled for sometime in 1999.



*(Platte River Cooperative Agreement Con't)*

tal community. Much of the effort to date has been organizational in nature, but the activity level is rapidly increasing. Four committees have been formed. The **Water Committee**, chaired by John Lawson of the Bureau of Reclamation, was responsible for selecting a consultant to conduct a study of the water conservation and water supply opportunities in the basin. That consultant, Boyle Engineering of Denver, has recently begun work on the study which is to be completed by early in the year 2000.

The **Land Committee**, co-chaired by Lexington area residents Jim Lundgren and Dr. Joe Jeffrey, has also been very active, meeting frequently in the Central Platte area to develop habitat criteria, discuss optional ways of protecting land utilized for habitat purposes, and beginning an assessment of third party impacts that could result from program related changes in land use or ownership. Both the program documents and the Land Committee have made it clear that land and interests in land for the program may be acquired only from willing sellers. Intent has also been expressed to offset any adverse property tax consequences resulting from the program if it is implemented.

The **Technical Committee** responsible for activities like monitoring and review of the scientific studies to be used in the program has also been established. It is chaired by Jay Maher, the relicensing coordinator for Central Nebraska Public Power and Irrigation District.

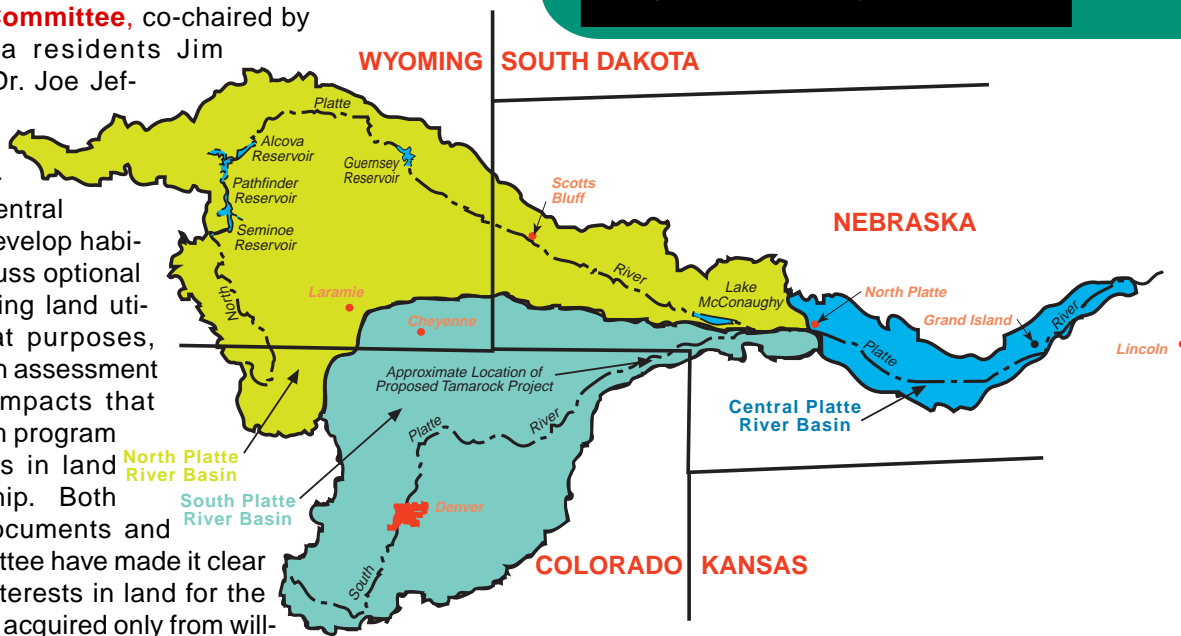
Finally, an **Outreach Committee** chaired by Jim Cook, the Commission's legal counsel, has begun operation as well. Its purpose is to guide the information/education process for the proposed program.

Soon after the Governance Committee was formed, it decided to employ professional staff to coordinate activities and make sure that identified milestones were being completed on time. In late winter, Dale Strickland, a consultant from Cheyenne, Wyoming was selected as the Executive Director. He is being paid from funds provided by each of the three states and by the Department of the Interior. Mr. Strickland has already spent a great deal of time in Nebraska and will continue to do so over the next couple of years.

It's still too early to determine whether the proposed program will succeed. Much remains to be done in each of the three states. In Nebraska many decisions will have to be made in the next two to three years by natural resources districts, state agencies, and probably the Nebraska Legislature. Opportunities for input into those decisions will be provided in many different ways and all readers interested in the future of the Platte River are encouraged to watch for those opportunities and to participate in them.

If you would like more information about the proposed basinwide recovery program for endangered species, please contact any of the following individuals:

## Platte River Basins



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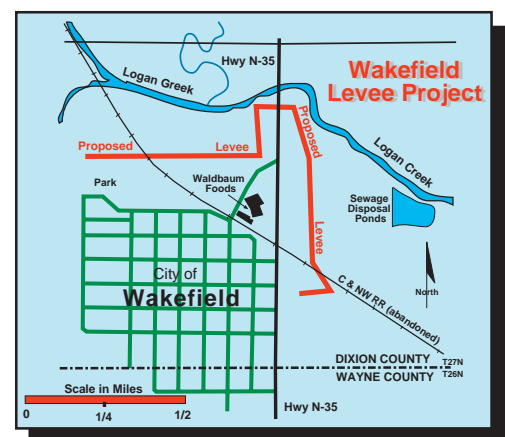
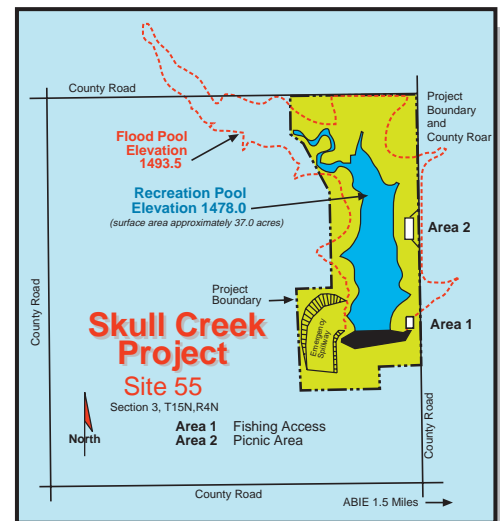
## Powder Creek, Skull Creek 55 and Wakefield Projects Get Green Light

By Tom Pesek

Two water resources projects were recently approved for state funding assistance through the Nebraska Resources Development Fund (NRDF) while the amount of state funding for another project was increased. The Commission approved a **NRDF grant of \$453,671.40 (65% of the eligible non-federal project cost of \$697,956) for the Powder Creek Project** located south-east of Newcastle. The project involves Site 31-20A, one of two multi-purpose sites in the Aowa Creek Watershed, a P.L. 566 project planned, designed, and principally funded by the Natural Resources Conservation Service. The earthen dam to be built on Powder Creek, a perennial tributary of Aowa Creek, will result in a reservoir with a conservation pool of 112 acres. The Lewis & Clark NRD, the project sponsor, plans to acquire 462 acres for the project to facilitate recreation facility development and public use. Due to the project's location, it is expected to complement Ponca State Park. The Game and Parks Commission will manage the project area after completion. The Powder Creek Project will also reduce flooding to agricultural land and roads and bridges downstream along with property in the City of Ponca. The timetable for project development to begin is contingent upon federal funding through the Natural Resources Conservation Service.

The **Wakefield Levee Project** is sponsored by the City of Wakefield and consists of a levee on the north and east sides of the community, a highway closure structure, and flood proofing of three city wells. The project will provide 100-year flood protection to the city from Logan Creek. **The Commission approved a NRDF grant of \$719,838 or 70% of the total project cost of \$1,028,340.** The Lower Elkhorn NRD and the City of Wakefield will cost-share the remaining 30%. The city has also applied to FEMA (Federal Emergency Management Agency) for funding through the Hazard Mitigation Grant Program (HMGP). If HMGP funding is approved, the level of NRDF funding will be reconsidered at that time.

**The Commission also increased the NRDF grant allocation (from \$389,517 to \$494,943 or 75% of the total project cost) for the Skull Creek Site 55 Project.** Sponsored by the Lower Platte North NRD, this project involves the construction of an earthen dam on a tributary of the West Branch of Skull Creek north of Bruno. A 37-acre reservoir is planned on a site of approximately 200 acres. The project will provide both flood control and recreation benefits as limited recreation facilities are planned. This project has been delayed by an inadequate level of land treatment above the structure site but the NRDF will meet this requirement before construction begins.



## Pender Groundbreaking

By Tom Pesek

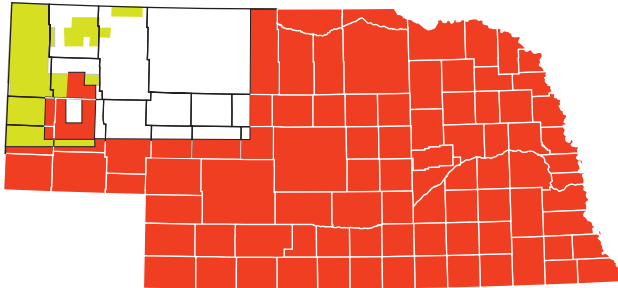
A groundbreaking ceremony for the **Pender Flood Control Project** was held on June 27, 1998, at the Pender Airport. Approximately 100 people attended the event which featured an ensemble from the Pender High School Band and vocalist Rochelle Kai. Speakers included Don "Skip" Meisner of SIMPCO; Nick Johnson of Johnson, Erickson, O'Brien and Associates; Vince Krampfer, Chairman of the Natural Resources Commission; Dick Seymour of the Lower Elkhorn NRD; Colonel Robert Volz of the Omaha District, Corps of Engineers; Jim Barr of Congressman Bereuter's office; Frank Appleton, Chairman of the Pender Village Board; and Bob Meier, Construction Superintendent of Industrial Builders, Inc.

The Pender Flood Control Project is a Section 205 project planned, designed, and principally funded by the Corps of Engineers. The project will protect Pender from the 385-year flood event on Logan Creek and primarily consists of levee construction, including a floodwall section, two state highway closure structures, and a detention basin. **The total project cost is \$5,295,850 with 60% of the non-federal cost or \$913,293 being provided by the Natural Resources Commission** through the Nebraska Resources Development Fund. Project construction began in May and is scheduled to be completed in late 1999.

## Project Update

*The Nebraska Natural Resources Commission continues to work on three priority statewide geographic databases.*

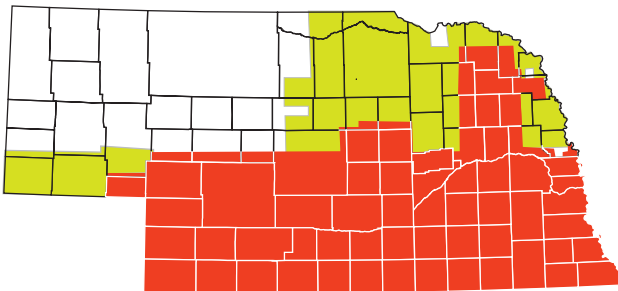
### Status Map for Digital Elevation Models (DEMs)



- DEMs Completed and Certified
- DEMs Completed but Not Certified
- DEMs in Progress

Digital Elevation Models have been completed and certified for approximately 60% of the state and have been completed for another 20%. The Commission expects to complete this project by July of 1999.

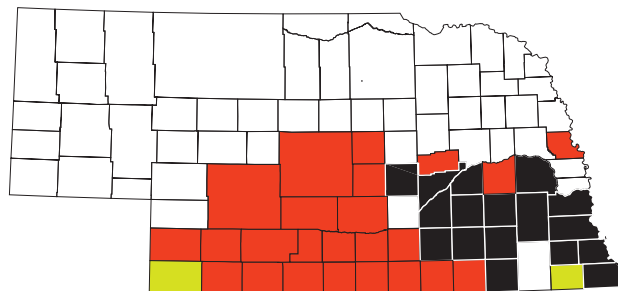
### Status Map for Digital Orthophoto Quarter Quadrangles (DOQQs)



- DOQQs Completed and Certified
- DOQQs Completed but Not Certified

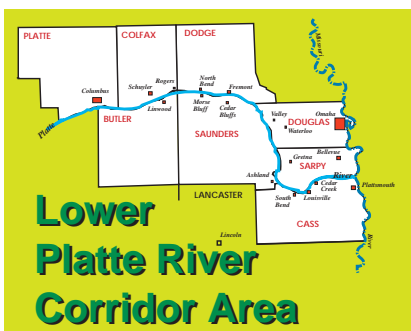
Digital Orthophoto Quadrangles have been completed and certified for 50% of the state and have been completed for another 20%. The Commission expects to complete this project by July of 1999 also.

### Status Map for Soil Survey Geographic Database



- Digitized Certified
- Digitized but Not Certified
- Compiled but Not Digitized

County Soil Surveys have been digitized for 19 of the state's 93 counties, two of which have been certified. Compilation has been started on an additional 24 counties. The Commission expects to complete this project by the year 2001.



## Commission to Assist with GIS/Database Efforts

The Natural Resources Commission will help supervise the geographic information system (GIS) and database elements of two major ongoing studies that it is helping to sponsor. The Platte River Cooperative Hydrology Study and the Lower Platte River Feasibility Study are separate efforts which each contain work elements aimed at assembling a package of geographic information relevant to their study areas. Agreement has been reached to station the personnel and equipment for GIS system work elements at the Natural Resources Commission's offices. This would allow co-use of equipment and exchange of ideas and information between the two efforts. Each study is a

cooperative effort with extensive NRD participation and sponsorship.

The Platte River Cooperative Hydrology Study is intended to improve the understanding of the hydrological and geological conditions of the Platte Basin in Nebraska upstream of Columbus. The Lower Platte Feasibility Study is an effort to investigate flood damage reduction and water resources problems and solutions in the Lower Platte River Basin. Work on both studies began earlier this year.

## FMA Update

By Steve McMaster

The Flood Mitigation Assistance (FMA) program has been very active over the last several months. The Commission recently completed work on the *Community Flood Mitigation Planning Guidebook* and sent copies to each of the 308 communities participating in the National Flood Insurance Program in Nebraska, each County Emergency Management Coordinator, and to each natural resource district. A planning grant application is included as part of the Guidebook; thus, after reading the Guidebook, a community may apply for a planning grant. Currently, the Commission plans to accept applications on an open basis. However, there is also currently a question about how much funding may become available for grant match money in the near future.

With the Fiscal Year 1998 FMA money, the City of Superior will receive the planning grant money to study the nature of and possible solutions to their flooding problems. The City has signed a contract with an engineering firm to delineate floodplain boundaries (there are four possible flood sources within the City and extraterritorial boundary) and to assess the flood risk to structures determined to be situated in the floodplain. The Nebraska Department of Economic Development has funded the majority of the Superior flood study with money from the Community Development Block Grant program. For the FY '98 project grant money, the Commission is currently working with the Village of Rulo to determine if there is a viable flood damage-reducing project for that riverside town.

### STATE OF NEBRASKA

E. Benjamin Nelson, Governor



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